

2015 Legislative Session Highlights



Florida Department of Law Enforcement

The regular 2015 legislative session ended Friday, May 1, 2015. The House of Representatives actually adjourned on Tuesday, April 28, 2015. Because the two houses did not agree on a budget during the regular session, a Special Session was held June 1 -19, 2015.

During that session, the Legislature passed a \$79 billion spending plan for Fiscal Year 2015-16. The department received \$18 million in new funding and 44 new full-time equivalent (FTE) positions. These new spending priorities are summarized below.

New Funding

Replace Computerized Criminal History System - \$3,820,816 Trust Funds (6 FTE) Continuation of the replacement of the Computerized Criminal History system to increase functionality for criminal justice agencies and improve the quality of Florida's criminal history records. Once fully implemented, the new system will process criminal records faster and more efficiently, reduce manual processing and improve data management. It will also improve the ability to update and modify data elements to meet customer needs, statutory requirements, criminal history standards and privacy concerns.

Improve Crime Lab Evidence Security - \$858,748 General Revenue/\$500,000 Trust Funds (5 FTE) Crime laboratory analyst positions will be added to each of the five chemistry sections statewide to implement a random re-testing program for chemistry evidence and assist with incoming requests. In addition, allocations are provided to improve evidence tracking by purchasing and installing a Radio Frequency Identification (RFID) barcode tag system and upgrading the current security of evidence lockers from manual key/lock system to proximity readers.

Add Investigative Staffing for Death Investigations - \$2,258,437 General Revenue (17 FTE) Staffing to meet the increased demand for investigative services relating to in-custody deaths at the Department of Corrections. This will allow for thorough investigations of in-custody deaths without diverting hours needed for other core mission responsibilities of the department.

Expand Latent Prints Lab Discipline - \$372,488 Trust Funds (6 FTE) Crime lab analyst positions to keep pace with increased submissions and provide services seven days a week. Implementation of technology to search applicant fingerprints against previously unidentified latent prints has significantly increased the crime lab workload and generated a backlog.

Improve Solvency of Criminal Justice Standards and Training Trust Fund - \$4,800,000 General Revenue Recurring funds appropriated to ensure officer training funds remain at \$67 per officer and help maintain the solvency of the Trust Fund.

Maintenance of Laboratory Equipment - \$500,000 Trust Funds Continuation of maintenance contracts to ensure that laboratory equipment used in evidence processing complies with the American Society of Crime Laboratory Directors/Laboratory Accreditation Board Standard. This maintenance is outside the scope of FDLE's capabilities and must be provided through maintenance agreements with vendors who are authorized and certified by the equipment manufacturers.

Increase Background Unit Staffing - \$225,162 Trust Funds (4 FTE) Addition of a Senior Crime Intelligence Analyst and three Crime Intelligence Analyst I positions to assist in reducing backlogs and improve the completion time for all background investigation requests.

Upgrade Automated Training Management System - \$1,530,940 Trust Funds Implementation of the first phase of a 2-phase re-building process to re-write the existing ATMS II system using latest technologies to provide improvements, efficiencies, enhancements, eliminate manual processes, and allow extensibility and scalability of the system as business needs change due to mandates and or rule changes that govern the Criminal Justice Standards and Training Commission. The current system is more than 15 years old and relies on outdated technology. These funds will rebuild the infrastructure for its core functionality currently maintained in ATMS II.

Increase Compliance Audits - \$250,837 Trust Funds (4 FTE) Addition of four Government Operations Consultant III positions to the Field Support Section within Criminal Justice Information Services program for the continuation of triennial audits of criminal justice and non-criminal justice agencies that access state and national criminal history record information to ensure compliance with the Criminal Justice Information Services Security Policy.

Adjust Grant Authority - \$1,754,800 Trust Funds Compensates for the disbursements on existing and ongoing sub-grants under the Federal Homeland Security Grant program.

Increase for Credit Card Processing Fees - \$424,714 Trust Funds Payment of credit card processing fees associated with the electronic submission of fingerprints from criminal history record check customers.

In addition, \$300,000 was allocated to the department to conduct a statewide assessment of sexual assault kits that have not been analyzed. The department shall submit a report of its findings to the Governor, President of the Senate and Speaker of the House by January 1, 2016.

Other bills passed during either the regular or special session that will assist law enforcement in implementing public safety initiatives or may be of interest to members are summarized below.

Public Safety Bills

Relating to Substance Abuse Services – CS/CS/HB 21

Establishes a process for the voluntary certification of recovery residences and recovery residence administrators. Recovery residences, also called sober homes, provide a living environment free from substance abuse to assist in recovery from addiction. The Department of Children and Families (DCF) is required to approve at least one credentialing entity by December 1, 2015, for the development and administration of the certification programs.

The credentialing entity or entities must establish procedures for the certification of recovery residences and recovery residence administrators. The bill also provides for application, examination and certification fees for the recovery residence administrator. The DCF is required to publish a list of all certified recovery residences and recovery residence administrators on its website but the bill allows for a recovery residence or recovery residence administrator to be excluded from the list under certain circumstances. Approved by the Governor 06-10-2015, Chapter No. 2015-100. These provisions took effect July 1, 2015.

Relating to Sexual Offenses – HB 133

Establishes the “43 Days Initiative Act” in s. 775.15(13), F.S., and amends laws related to sex crimes. A criminal prosecution requires, among other things, that a court have jurisdiction over the defendant and that the prosecution occur within the statute of limitations. A statute of limitations is an absolute bar to the filing of a legal case after a date set by law. Some statutes of limitations related to felony sexual battery offenses were four years; this bill extends those statutes of limitations to eight years.

Current law provides that a minor who commits sexting for the first time commits a noncriminal violation. In response to a recent appellate court ruling regarding jurisdiction over sexting offenses committed by a minor, the bill provides that a circuit court has exclusive original jurisdiction over proceedings in which a minor is alleged to have committed a noncriminal violation that has been assigned to juvenile court by law. Additionally, the bill revises penalties associated with a minor's first violation of the sexting statute. Approved by the Governor 06-11-2015, Chapter No. 2015-133. These provisions took effect July 1, 2015.

Fraud – CS/CS/CS/HB 157

Amends ch. 817, F.S., to provide individuals and businesses greater protections against identity theft. In general terms, these changes affect individuals by allowing them to better identify when identity theft has been committed against them and by removing barriers to restoring their identity and credit after the crime has occurred. Additional forms of restitution are provided, which might allow the victims additional methods of recovering their financial losses. For business entities, the bill provides greater protections against fraud and identity theft. Approved by the Governor 06-16-2015, Chapter No. 2015-166. These provisions take effect October 1, 2015.

Tracking Devices or Tracking Applications – CS/CS/HB197

Creates a new section of Florida Statutes making it a second degree misdemeanor for a person to knowingly install a tracking device or tracking application on another’s property without the other person’s consent. The bill amends s. 493.6118, F.S., to add commission of the new offense as grounds for disciplinary action against persons regulated under ch. 493, F.S. (Private Investigative, Private Security, and Repossession Services), or who are engaged in activities regulated under that chapter. The prohibition against knowingly installing a tracking device or tracking application does not apply to:

- A law enforcement officer as defined in s. 943.10, F.S., or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or application on another person’s property as part of a criminal investigation;
- A parent or legal guardian of a minor child who installs a tracking device or application on the minor’s property (Note: when the parents or guardians are divorced, separated, or otherwise living apart from one another, this exception applies only if both parents or guardians consent to the installation of the device or application; however, if one parent or guardian has been granted sole custody, consent of the noncustodial parent is not required; the exemption also applies to the sole surviving parent or guardian.);
- A caregiver of an elderly person or disabled adult, if the elderly person or disabled adult’s treating physician certifies that such installation is necessary to ensure the safety of the elderly person or disabled adult;
- A person acting in good faith on behalf of a business entity for a legitimate business purpose (Note: this exemption does not apply to a person engaged in private investigation for another person unless the person for whom the investigation is being conducted would otherwise be exempt from the bill’s provisions.);

- An owner or lessor of a motor vehicle during the period of ownership or lease, provided that the device is removed before the vehicle title is transferred or the lease expires, or the new owner gives written consent for non-removal; or
- The original manufacturer of a vehicle.

Approved by the Governor 06-11-2015, Chapter No. 2015-137. These provisions take effect October 1, 2015.

Diabetes Awareness Training for Law Enforcement Officers – CS/HB 201

Requires the department to establish an online continued employment training component relating to diabetic emergencies. Instruction must include, at a minimum, recognition of symptoms of such an emergency, distinguishing such an emergency from alcohol intoxication or drug overdose, and appropriate first aid for such an emergency. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer. Approved by the Governor 06-16-2015, Chapter No. 2015-168. These provisions take effect October 1, 2015.

Public Records/Body Camera Recording Made by a Law Enforcement Officer - CS/CS/CS/SB 248

Creates a public records exemption for a body camera recording made by a law enforcement officer. By definition, the body camera records audio and video data in the course of the officer performing his or her official duties and responsibilities. The bill makes a body camera recording, or a portion thereof, confidential and exempt from public disclosure if the recording is taken:

- Within the interior of a private residence;
- Within the interior of a facility that offers health care, mental health care, or social services; or
- In a place that a reasonable person would expect to be private.

Approved by the Governor 05-21-2015, Chapter No. 2015-41. These provisions took effect July 1, 2015.

Relating to Traffic Enforcement Agencies and Traffic Citations - CS/SB 264

Prohibits a traffic enforcement agency from establishing a traffic citation quota and creates a reporting requirement for counties and municipalities under certain circumstances. Approved by the Governor 05-14-2015, Chapter No. 2015-15. These provisions took effect July 1, 2015.

Carrying a Concealed Weapon or a Concealed Firearm – CS/CS/SB 290

Creates an exception to s. 790.01, F.S., the statute that prohibits carrying concealed weapons or firearms, unless a person is licensed. The exception provided in the bill allows a person to carry a concealed weapon or firearm on or about his or her person, regardless of licensure status, while in the act of complying with a mandatory evacuation order. The order must be issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., or declared by a local authority pursuant to ch. 870, F.S. In order to carry a firearm the person must be lawfully able to possess the firearm. The bill defines the term “in the act of evacuating” as the immediate and urgent movement of a person away from the evacuation zone within 48 hours after a mandatory evacuation is ordered. It provides that the 48 hours may be extended by an order issued by the Governor. Approved by the Governor 05-21-2015, Chapter No. 2015-44. These provisions took effect upon becoming law.

Juvenile Justice- CS/SB 378

Expands juvenile civil citation by allowing law enforcement to issue a civil citation or participation in a similar diversion program to youth who have committed up to three misdemeanors. Use of civil citation or similar diversion programs will no longer only be available to first-time misdemeanor offenders under the bill. In addition, law enforcement will be authorized to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, as well as issue a civil citation or require participation in a similar diversion program under the bill. The bill also states that if an arrest is made, law enforcement must provide written documentation as to why the arrest is warranted. Approved by the Governor 05-21-2015, Chapter No. 2015-46. These provisions take effect October 1, 2015.

Human Trafficking – CS/CS/HB 465

Amends s. 796.07, F.S., relating to prostitution, by enhancing the criminal penalties for a person who solicits, induces, entices, or procures another to commit prostitution, lewdness, or assignation. The bill also amends s. 943.0583, F.S., relating to human trafficking victim expunction, to require the court to allow an advocate from the state attorney's office, law enforcement agency, safe house or safe foster home, or residential facility offering services to adult human trafficking victims to be present with the victim/petitioner during any expunction court proceeding. Approved by the Governor 06-11-2015, Chapter No. 2015-145. These provisions take effect October 1, 2015.

Public Records/Human Trafficking Victims – HB 467

Expands the current public records exemption for certain criminal intelligence and criminal investigative information to include identifying information of a child victim of human trafficking for labor or services, as well as any victim of human trafficking for commercial sexual activity. The bill also creates a public record exemption for this newly described criminal intelligence or investigative information relating to human trafficking victims that is expunged or ordered expunged under s. 943.0583, F.S. The exemption applies to information held by a law enforcement agency before, on, or after the effective date of the exemption. Approved by the Governor 06-11-2015, Chapter No. 2015-146. These provisions take effect October 1, 2015.

Public Records/Residential Facilities Serving Victims of Sexual Exploitation – HB 469

Creates a public records exemption for the location information of a safe house, safe foster home or other residential facility serving child victims of sexual exploitation. It also creates an exemption for the location information of a residential facility offering services for adult victims of human trafficking involving commercial sexual activity. Approved by the Governor 06-11-2015, Chapter No. 2015-147. These provisions take effect October 1, 2015.

Notaries Public – CS/SB 526

Allows specified criminal justice certified officers engaged in the performance of official duties to remotely administer an oath either through reliable electronic means, or in the physical presence of a person who swears to an affidavit. Currently, these officers may only administer an oath in the physical presence of an affiant. Additionally, the bill allows these officers to verify documents pursuant to ss. 92.50 and 92.525, F.S. Approved by the Governor 05-14-2015, Chapter No. 2015-23. These provisions took effect July 1, 2015.

Relating to Sexual Cyberharassment – SB 538

Creates s. 847.0136, F.S., to specifically address the non-consensual transmission or posting of sexually explicit images to social networking services or a website, or by means or any other electronic medium.

A person who makes the disclosure commits a first degree misdemeanor. For a second or subsequent violation a person commits a third degree felony. The bill provides for civil remedies including injunctive relief, monetary damages to include \$5,000 or actual damages whichever is greater and reasonable attorney fees and costs. Providers of Internet and storage services, or other information and communication services, such as electronic communications and messaging, are not liable under the provisions of this bill. Approved by the Governor 05-14-2015, Chapter No. 2015-24. These provisions take effect October 1, 2015.

Surveillance by a Drone – CS/CS/SB 766

Prohibits a person, state agency, or political subdivision from using a drone to record an image of privately owned real property or people on private property with the intent to conduct surveillance on the individual or property and without written consent to do so. A current exception for certain law enforcement agency activity is expanded to include activities by property appraisers, utilities, aerial mappers, cargo delivery systems, and any other person or entity engaged in a business licensed by the state, subject to certain conditions. The bill authorizes an aggrieved party to initiate a civil action and obtain compensatory and punitive damages and injunctive relief for a violation of the law. Approved by the Governor 05-14-2015, Chapter No. 2015-26. These provisions took effect July 1, 2015.

False Personation – SB 1010

Revises the list of officials who are prohibited from being falsely personated to include firefighters and fire or arson investigators of the Department of Financial Services. The bill also prohibits the use of badges or indicia of authority bearing in any manner or combination the words “fire department” and the ownership or operation of vehicles marked by the words “fire department.” Further, relevant to these offenses, the bill modifies criminal intent language to require proof that the offender had the intent to mislead or cause another person to believe that:

- The offender is a member of a criminal justice agency or fire department or is authorized by such agency or department to wear or display its badge; or
- The vehicle the offender owns or operates is an official law enforcement vehicle or fire department vehicle and its use by the offender is authorized by such agency or department.

Approved by the Governor 05-14-2015, Chapter No. 2015-29. These provisions take effect October 1, 2015.

Emergency Treatment for Opioid Overdose – CS/HB 751

Establishes the “Emergency Treatment and Recovery Act” (Act) which encourages the prescription of opioid antagonists by authorized health care practitioners for the emergency treatment of known or suspected opioid overdoses when a health care practitioner is not available. The bill authorizes health care practitioners to prescribe and dispense opioid antagonists to patients, caregivers, and first responders. First responders, including but not limited to, law enforcement officers, paramedics, and emergency medical technicians are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated.

Civil liability protection is extended to any person, including health care practitioners, pharmacists, and first responders who possess, administer, or store an approved opioid antagonist in accordance with the Act. A health care practitioner acting in good faith and exercising reasonable care is not subject to discipline under the applicable professional licensure statute and is also immune from civil or criminal liability for prescribing or dispensing an opioid antagonist in accordance with the Act. This Act does not

create a duty or standard of care for a person to prescribe or administer an opioid antagonist. Approved by the Governor 06-10-2015, Chapter No. 2015-123. These provisions took effect upon becoming law.

Relating to Controlled Substances – CS/HB 897

Adds several synthetic cannabinoids to the controlled substances list in Schedule I of s. 893.03, F.S. This scheduling also applies to any material, compound, mixture, or preparation that contains any of the substances' salts, isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation. Approved by the Governor 05-14-2015, Chapter No. 2015-34. These provisions took effect upon becoming law.

Intercepting and Recording Oral Communications – HB 7001

Creates an exception to the general prohibition against interceptions of oral communications. The bill allows a child who is under 18 years of age and a party to the communication to intercept and record an oral communication if the child is a party to the communication; the child has reasonable grounds to believe that recording the communication will capture a statement by another party to the communication; and the statement by the other party is that he or she intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child. Approved by the Governor 05-22-2015, Chapter No. 2015-82. These provisions took effect July 1, 2015.

Relating to Public Records/Reports of a Deceased Child – SB 7032

Amends the public records and public meetings exemptions for certain identifying information held by the State Child Abuse Death Review Committee or a local child abuse death review committee and for portions of meetings of such committees where such information is discussed. The changes to the exemptions reflect changes to the child welfare laws enacted during the 2014 Session. Specifically, the bill extends the exemption to cases reviewed by a committee where the death was determined not to be the result of abuse or neglect and limits the exemption for cases involving verified abuse or neglect to only exempt the information of surviving siblings. The bill also authorizes release of confidential information to a governmental agency in furtherance of its duties or a person or entity for research or statistical purposes. Approved by the Governor 05-21-2015, Chapter No. 2015-77. These provisions took effect upon becoming law.

Public Records/ Florida RICO Act – HB 7061

Makes confidential and exempt from public disclosure information held by an investigative agency pursuant to an investigation of a violation of the Florida Racketeer Influenced and Corrupt Organization (RICO) Act. The bill provides a public necessity statement in support of the exemption. This confidential and exempt information may be disclosed by the investigative agency to a governmental entity in the performance of its official duties and to a court or tribunal. Approved by the Governor 06-02-2015, Chapter No. 2015-82. These provisions took effect July 1, 2015.

Other Bills of Interest

Relating to Agency Inspectors General – CS/CS/CS/HB 371

Amends provisions related to Office of Inspectors General and the Chief Inspector General. Approved by the Governor 06-16-2015, Chapter No. 2015-173. These provisions took effect July 1, 2015.

Athletic Trainers – CS/HB 541

Revises the legislative intent relating to athletic trainers, updates definitions, and revises the requirements for licensure as an athletic trainer. Applicants must pass the national examination to be certified by the Board of Certification. Background screening requirements for new applicants, applicants whose licenses have expired and licensees undergoing disciplinary action would go into effect on July 1, 2016. Approved by the Governor 06-10-2015, Chapter No. 2015-116. These provisions take effect January 1, 2016.

Relating to Florida State Employees' Charitable Campaign – SB 694

Allows state officers and employees to donate to the Florida State Employees' Charitable Campaign (FSECC) at agency fundraising events without designating specific organizations to receive the funds. The bill provides that the FSECC's fiscal agent must distribute these "undesignated" funds to participating charitable organizations in direct proportion to the percentage of designated funds or pledges received by the organization. Approved by the Governor 05-21-2015, Chapter 2015-61. These provisions took effect July 1, 2015.

Administrative Procedures – HB 7023

Replaces the biennial summary reporting requirement with an expanded, annual regulatory plan prepared by each agency. It requires each state agency to determine whether each new law creating or affecting the agency's authority will require new or amended rules. If so, the agency must initiate rulemaking by November 1. If not, the agency must state concisely why the law may be implemented without additional rulemaking. The regulatory plan also must identify each existing law for which the agency will initiate rulemaking in the current fiscal year. The agency head and the agency's principal legal advisor must certify that they have reviewed the plan and that the agency conducts a review of its rulemaking authority.

The existing 180-day requirement is revised to coincide with the specific publishing requirements for state agencies that consist of October 1 for the regulatory plan, November 1 for the rule development and April 1 (of the year following the deadline for the regulatory plan) for the notice of proposed rule. The deadline for notice of proposed rule may be extended if the state agency publishes a notice of extension and includes a concise statement identifying issues causing the delay. This extension will expire on October 1; however, the regulatory plan published on October 1 may further extend the proceeding.

The bill repeals s. 120.7455, F.S., pertaining to the online survey of regulatory impacts. Additionally, the bill rescinds the suspension of rulemaking authority made under s. 120.745, F.S. Approved by the Governor 06-11-2015, Chapter No. 2015-162. These provisions took effect July 1, 2015.